

**REMARKS**

INTRODUCTION:

In accordance with the foregoing claims 1 and 28 have been amended and claims 8 – 27 and 31 – 35 have been withdrawn from consideration. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1 – 7, 28 – 30, and 36 – 39 are pending and under consideration. Reconsideration is respectfully requested.

ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116:

Applicant requests entry of this Rule 116 Response and Request for Reconsideration because:

- (a) it is believed that the amendment of claims 1 and 28 puts this application into condition for allowance as suggested by the Examiner on page 2 of the Office Action; and
- (b) the amendments were not earlier presented because the Applicants believed in good faith that the cited prior art did not disclose the present invention as previously claimed.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." ( Underlining added for emphasis) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REJECTION UNDER 35 U.S.C. §102:

In the Office Action, at page 3, claims 1 and 28 were rejected under 35 U.S.C. §102 in view of Sasanuma et al. U.S. Patent No. 5,859,933 (hereinafter "Sasanuma"). This rejection is traversed and reconsideration is requested.

In accordance with the Examiner's suggestions on page 2 of the Office Action, claims 1 and 28 are amended to patentably distinguish over the prior art. Sasanuma is directed to testing the scanning capability of a copier type machine. In Sasanuma, a stored test pattern is

obtained from a test pattern memory of the copier. This test pattern is printed on a piece of paper by the print engine of the copier. A user obtains the paper from the output paper tray and places the paper, with the test pattern thereon, on the scanner glass of the copier. The user is allowed a predetermined period of time to obtain the piece of paper from the tray and position it on the scanner. After the predetermined period expires, the scanner is activated, the test pattern on the piece of paper is scanned and the scanned test pattern is compared to the stored test pattern. That is, Sasanuma is directed to testing a scanner with a test pattern.

In contrast, the present invention is directed to very different subject matter. The present invention is directed to testing an electronic display. In particular claims 1 and 28 emphasize "displaying a specific color patch on the electronic display" and "measuring a color of the color patch displayed on the electronic display". Sasanuma does not teach or suggest such. It is submitted that the present claimed invention patentably distinguishes over Sasanuma and withdrawal of the rejection is requested.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 9/25/01

By: 

J. Randall Beckers  
Registration No. 30,358

1201 New York Avenue, N.W.  
Suite 700  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501